THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.8703 OF 2001

DATED: 30TH JUNE, 2006.

Between :

L. Sankara Rao … Petitioner

And

1. Govt. of A.P., rep. by the Secretary (TW),
   Social Welfare (CV.2) Department,
   Secretariat, Hyderabad., and
   2 others. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.8703 OF 2001

ORDER :

Heard the learned Counsel for the petitioner and the learned Government Pleader for Social Welfare appearing for the respondents.

In exercise of powers conferred under the Provisions of Section 5 (1) of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act 16 of 1993 (for short, 'Act 16 of 1993'), the 2nd respondent – District Collector, Vizianagaram passed an order dated 8-11-1999 cancelling the Konda Kapu-S.T. caste certificate dated 12-4-1967 issued by the then Tahsildar, Salur in favour of the writ petitioner.

Aggrieved by the same, the petitioner preferred an appeal under Section 7 of the Act 16 of 1993 before the 1st respondent. The said appeal was dismissed by order dated 30-3-2001, which is under challenge in this writ petition.

Though the petitioner raised various grounds on merits, primarily it is contended that the Appeal was dismissed without hearing the petitioner and therefore the impugned order dated is in violation of principles of natural justice.

It is the specific case of the petitioner that on 24-7-2000 when the matter was posted for hearing before the 1st respondent, the Counsel appearing for the appellant contended that the impugned proceedings dated 30-3-2001 of the District Collector, Vizianagaram

was contrary to the report of the Mandal Revenue Officer, Salur, dated 19-8-1988. The matter was therefore adjourned calling for the remarks of the District Collector, Vizianagaram with regard to the contention raised by the Counsel for the appellant/writ petitioner. However, without posting the appeal for further hearing, the appeal itself was dismissed under the impugned order. Thus, it is contended that the impugned order was in violation of principles of natural justice.

The learned Counsel appearing for the petitioner Smt. M. Bhaskara Lakshmi submitted that the arguments in the appeal before the 1st respondent were not concluded on 24-7-2000 and the understanding was that the appeal would be heard on further date after receiving remarks of the District Collector, Vizianagaram.

However, the learned Government Pleader for Social Welfare contended that the petitioner is not entitled for any copy of the report of the remarks of the District Collector and at any rate since the petitioner had no personal knowledge as to actually what transpired on 24-7-2000, in the absence of an affidavit by the Counsel who appeared before the 1st respondent, it cannot be held that the arguments in the appeal were not concluded on 24-7-2000.

The impugned order itself shows that the Appeal was adjourned on an objection raised by the learned Counsel appearing for the writ petitioner/appellant that the order of cancellation passed by the 1st respondent was not in terms of the report of the Mandal Revenue Officer, Salur dated 19-8-1988. Nothing has been placed before this Court by the respondents to show that on 24-7-2000 the order in the Appeal was reserved. In the circumstances, I do not see any justifiable reason to disbelieve the plea of the petitioner that the arguments in the appeal were not concluded on 24-7-2000.

Since the matter relates to cancellation of caste certificate and keeping in view the plea of the petitioner that certain aspects are required to be clarified, I am of the opinion that it would be appropriate

to remit the matter back to the 1st respondent, who being the appellate authority has to examine the correctness of the findings of fact recorded by the 2nd respondent.

Accordingly, the impugned order is set aside and the Writ Petition is disposed of with a direction to the 1st respondent to hear the petitioner after fixing a date of hearing and pass appropriate orders afresh in accordance with law. Such exercise shall be completed as expeditiously as possible preferably within a period of eight (8) weeks from the date of receipt of this order. Till then, the impugned order shall not be given effect to. No costs.

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G. ROHINI, J.

Dt. 30-6-2006

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